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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

FREDERICK JACKSON,
Plaintiff

vs.

CITY OF SEATTLE,
SEATTLE POLICE OFFICER LUKE
WINTERER, and SEATTLE POLICE
OFFICER SHAWN SWANSON,
Defendants

No. **C03- 716P**

COMPLAINT FOR DAMAGES



C V 03-00716 #00000002

COME NOW the plaintiff, **FREDERICK JACKSON** on his own behalf brings this action for illegal practices of the defendants, by and through his attorney John Scannell, and seeking damages against the above name defendants **CITY OF SEATTLE, SEATTLE POLICE OFFICER LUKE WINTERER BADGE # 6626, and SEATTLE POLICE OFFICER SHAWN SWANSON BADGE #6416,**

The civil claims include offenses committed under color of law resulting in a deprivation of rights secured by the Constitution and laws of the United States of America

1 **I. PARTIES, JURISDICTION, VENUE**

2 This action is brought under 42 U S C §1983 (Civil Rights Act of 1871) relating to the
3 plaintiffs' exercise of his rights under the Constitution of the United States

4 1 Plaintiff **FREDERICK JACKSON** is and was, at all times relevant hereto, a resident of
5 the State of Washington

6 2 The Defendant City of Seattle is a municipal corporation in the State of Washington and
7 is the employer of City of Seattle Police Officers (Seattle Police Officer Luke Winterer, badge
8 #6626 and Seattle Police Officer Shawn Swanson, badge #6416).

9 3 At all times pertinent to this complaint, the defendants Seattle Police Officer Luke
10 Winterer, badge #6626 and Seattle Police Officer Shawn Swanson, badge #6416 were employees of
11 the City of Seattle acting as police officers In doing the acts and things hereinafter set forth, said
12 Defendants were acting, in their respective capacities as stated, under color of an Ordinance of the
13 City of Seattle, State of Washington, namely, R C W 38 52 et seq as well as other Statutes of
14 Washington and ordinances of City of Seattle respectively.

15 4. At all times relevant hereto each of the defendants was acting as agent of each of the
16 other defendants

17 5 Jurisdiction is conferred on the court by virtue of 29 U S C §1331, §1334, §1343
18 Venue in this district is appropriate pursuant to Title 28, United States Code, §1391, because the
19 pertinent events took place in this district

20 **II. FACTS**

21 6. On October 30, 2001, plaintiff was driving his vehicle headed north on Delridge Way in
22 Seattle.

23 7. Plaintiff drove past defendants Seattle Police Officer Luke Winterer, badge #6626 and
24 Seattle Police Officer Shawn Swanson, badge #6416 as they prepared to pull into traffic on
25 Delridge Way As he did so, plaintiff made eye contact with Seattle Police Officer Luke Winterer,
26

1 badge #6626 and nodded pleasantly, checked his odometer as being under the speed limit, and
2 continued on his way

3 8 The defendants pulled into traffic behind the plaintiff, and then proceeded to signal for
4 him to pull over Plaintiff, thinking that the defendants were signaling for the plaintiff to move,
5 pulled to the side As the defendants pulled in behind the plaintiff, plaintiff realized that he was
6 being pulled over.

7 9 Seattle Police Officer Shawn Swanson, badge #6416 approached plaintiff with his gun
8 out and Seattle Police Officer Luke Winterer, badge #6626 approached with his hand readied near
9 his weapon Officer Winterer asked plaintiff for license and registration Plaintiff inquired as to
10 why he was being pulled over, to which the officer informed him that he was driving a stolen
11 vehicle

12 10. Plaintiff asked who had reported the vehicle stolen as he handed over his license at
13 which time defendant corrected his initial response by informing plaintiff that the tabs and plates
14 were stolen

15 11 Plaintiff was attempting to proceed and get his registration as he placed his keys on the
16 dashboard, hoping that this would encourage Officer Swanson to put his weapon away

17 12 Officer Winterer asked plaintiff if he had any weapons Plaintiff denied having any,
18 however he did ask if the officer saw any, as he considered the catering knives he carried for work

19 13 At this point the officer began using profanities in reference to the plaintiff's hearing
20 and demanded plaintiff's registration

21 14 Plaintiff respectfully suggested that the officer could refrain from speaking in such a
22 derogatory manner, and inquired after a duty supervisor to which he could address in reference to
23 the officer's improper attitude

24 15 Plaintiff reminded the defendant that he was cooperating, had in fact placed his keys on
25 the dash in order to reassure the officers that he was not about to commit any injurious acts, to
26 which the officer responded with more profanity, threatening to drag the plaintiff out of the car

1 16 Plaintiff reminded defendant that he was cooperating fully, that he would not resist
2 arrest, and that he had not done anything wrong

3 17 Plaintiff dialed 911 on his cellular phone and asked for a supervising officer. As the
4 plaintiff attempted to explain that he had been pulled over by verbally abusive officers, Officer
5 Winterer opened plaintiff's door, grabbed and bent plaintiff's thumb as he twisted and bent the
6 wrist

7 18 Plaintiff plead for the officer to cease from treating him in such a manner as Officer
8 Swanson came to the driver's side of plaintiff's vehicle and pushed plaintiff's right shoulder into
9 the roof and door jamb. Both officers began forcefully twisting and bending plaintiff's arms and
10 wrists and towards his neck, despite plaintiff having done nothing to resist arrest

11 19 Plaintiff began to scream as the defendants threatened him with mace and continued to
12 verbally abuse him. Defendants then repeatedly threw plaintiff against his vehicle

13 20 Defendants proceeded to manhandle plaintiff into the patrol car, where inside the
14 verbal assaults from the defendants continued

15 21 Plaintiff was eventually released when police discovered that neither the car nor the
16 plates and tabs had been stolen, and that there had been an error when plaintiff had purchased new
17 tabs from the Department of Licensing

18 22 Plaintiff's left foot had been crammed under the patrol car's seat and had swelled to the
19 size of a small melon.

20 23 Plaintiff returned to his vehicle to find that the contents of his glove box and sun visor
21 had been scattered on the floor, the lunches that plaintiff had intended to deliver had been turned
22 upended and destroyed, plaintiff's hat had been tossed into a puddle of water against the curb, and
23 plaintiff's cigarettes had had water dumped into them

24 24 Upon return to his vehicle, plaintiff proceeded to the hospital, where he received
25 treatment for injuries to the arm and foot retained by the defendants
26

**FIRST CAUSE OF ACTION: VIOLATION OF THE
FOURTH AMENDMENT PROHIBITION AGAINST UNREASONABLE SEIZURES**

25 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 24

26 Plaintiff **FREDERICK JACKSON** was seized for the purposes of the Fourth Amendment to the United States Constitution as applied to the states through the Fourteenth Amendment to the United States Constitution, by the acts and omissions of the defendants

27 Plaintiff **FREDERICK JACKSON**, has rights, protected under the Fourth Amendment of the United States Constitution as applied to the states through the Fourteenth Amendment to the United States Constitution, not to be subjected to an unreasonable seizure

28 The acts and omissions of the defendants herein proximately caused the deprivation of the Fourth and Fourteenth Amendment rights of plaintiff **FREDERICK JACKSON**.

29 As a proximate result of the acts and omissions of the defendants and deprivation of plaintiffs' Fourth and Fourteenth Amendment rights, plaintiff has suffered personal injuries as set forth hereinabove.

**SECOND CAUSE OF ACTION; VIOLATION OF FOURTH AMENDMENT
PROHIBITION AGAINST THE USE OF UNREASONABLE FORCE**

30. Plaintiff hereby incorporates and realleges each and every allegation of paragraphs 1 through 29, as if fully set forth herein

31 Plaintiff **FREDERICK JACKSON** has a right, under the Fourth amendment of the United States Constitution as applied to the states through the Fourteenth Amendment to the United States Constitution, not to be subjected to the use of unreasonable force against his person

32. The acts and omissions of the defendants herein proximately caused the deprivation of the Fourth Amendment Rights as applied to the States through the Fourteenth Amendment to the United States Constitution, of plaintiff **FREDERICK JACKSON**

1 33 As a proximate result of the acts and omissions of the defendants and deprivation of
2 plaintiff's Fourth Amendment rights as applied to the states through the Fourteenth Amendment to
3 the United States Constitution, plaintiff has suffered personal injuries as set forth hereinabove

4 **THIRD CAUSE OF ACTION: VIOLATION OF THE FOURTEENTH AMENDMENT**
5 **DUE PROCESS CLAUSE**

6 34 Plaintiff hereby incorporates and realleges each and every allegation of paragraphs 1
7 through 33, as if fully set forth herein.

8 35 Plaintiff **FREDERICK JACKSON** has a right, under the Due Process Clause of the
9 Fourteenth Amendment to the United States Constitution, to remain in a public place of his choice
10 and the right to move from one place to another

11 36 The named plaintiff has a right, under the Due Process Clause of the Fourteenth
12 Amendment to the United States Constitution, to remain in a public place of his choice and the
13 right to move from one place to another

14 37 The acts and actions of the defendants herein proximately caused the deprivation of
15 plaintiff's Fourteenth Amendment rights

16 38 As a proximate result of the acts and omissions of the defendants and deprivation of
17 plaintiff's Fourth Amendment rights, plaintiff has suffered personal injuries as set forth
18 hereinabove

19 **FOURTH CAUSE OF ACTION: VIOLATION OF THE FOURTEENTH AMENDMENT**
20 **RIGHT TO PERSONAL SECURITY**

21 39 Plaintiff hereby incorporate and reallege each and every allegation of paragraphs 1
22 through 38, as if fully set forth herein

23 40 Plaintiff **FREDERICK JACKSON**, under the Fourteenth Amendment to the United
24 States Constitution, to personal security

25 41 The acts and omissions of the defendants caused deprivation of plaintiff's Fourteenth
26 Amendment rights to personal security

FIFTH CAUSE OF ACTION - ASSAULT AND BATTERY

42 Plaintiff hereby incorporates and realleges each and every allegation of paragraphs 1 through 41 , as if fully set forth herein

43 The named plaintiff was assaulted and battered by defendants

44 The named plaintiff has been assaulted and battered by defendant City of Seattle, through its employees Luke Winterer and Shawn Swanson

45 Defendant City of Seattle is liable for the actions of its employees through the doctrine of respondent superior

46 The named plaintiff has been damaged as a direct, proximate and foreseeable result of the wrongful actions of the defendants

SIXTH CAUSE OF ACTION - NEGLIGENCE

47 Plaintiff hereby incorporate and reallege each and every allegation of paragraphs 1 through 46 , as if fully set forth herein

48 The defendants were negligent in their actions taken against the named plaintiff

49 The named plaintiff has been damaged as a direct, proximate and foreseeable result of the negligent actions of the defendants

PRAYER FOR RELIEF

The Defendants actions set forth herein constitute an egregious, willful and malicious violation of section of 42 USC §1983

WHEREFORE, plaintiff respectfully requests that the Court enter judgment in their favor and in favor of the class for

(A) Order defendants to pay to plaintiff compensatory damages in an amount to be proven at trial

(B) Order defendants to pay to plaintiff punitive damages

(C) Order defendants to pay plaintiff's reasonable attorney fees, and costs

(D) Order such other and further relief as the court may deem to be just and proper

1 **DATED** this 5th day of February, 2003,



John R. Scannell, WSBA #31035
Attorney for plaintiff